

### REMARKS

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saias (U.S. Patent Application Publication No. 2003/0014379) in view of Kane (U.S. Patent No. 6,317,728). Claims 17-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Saias. Claims 1, 17, 18, 21, and 22 have been amended. Claims 23-42 have been added. Claims 1-42 are thus pending in the application.

Applicant has considered the cited art and the comments provided in the Office Action. The claim rejections are misplaced and should be withdrawn. Allowance of the application is requested.

#### Claims 1-16 Are Patentable Over Saias and Kane

Saias discloses an automated market, AM 108, that uses computational agents to coordinate trading between economic agents. The computational agents are programmed to act as surrogates for the economic agents, including human beings, to find a match for an exchange of resources between the economic agents (see paragraphs [0310]-[0312] of Saias).

Kane discloses a computerized system with various "agents" that provide trading suggestions to a trader to help the trader make a decision whether to enter into a trade. Depending on available information, the agents make a buy or sell suggestion to the trader based on the respective rules that they represent (see Col. 5, lines 5-15, of Kane). A suggestion from each agent is considered to be a vote (see Col. 5, lines 37-48). Depending on the outcome of the votes from the various agents, the trader may decide to create and send an order to a marketplace (see Col. 5, lines 49-55). After a closing trade is executed, the trader's position is categorized as a win or a loss. By adjusting a merit quotient (or reliability rating) associated with each of the trader's agents (see Col. 8, lines 35-45), the agents are thereafter either "rewarded" or "punished" for how well they advised the trader.

Turning now to Claim 1 of the present application, the Office Action (page 3) conceded that Saias does not disclose:

- "automatically determining, by a software process executing on a computer, whether each of the market participants has gained money or lost money from the trade," and
- "automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade."

Applicant submits that Kane also fails to disclose these elements of Claim 1. Notably, Kane's system only keeps track of its own side (buy or sell) of a trade. Each trader only knows whether its own side has gained or lost money from the trade; the trader does not know whether the contra side of the trade gained or lost money from the trade. Accordingly, Kane does not teach "automatically determining . . . whether each of the market participants has gained money or lost money from the trade."

Furthermore, *the agents disclosed by Kane are not "market participants."* The agents only advise a trader, or market participant, on one side of a trade whether to enter into a trade and what position to take in the trade. The agents taught by Kane do not enter into trades. In contrast, in Claim 1, "one of the market participants [is] a buyer in the trade and the other of the market participants [is] a seller in the trade."

To the extent a trader using Kane's system, at the conclusion of the trade, updates merit quotients to rate its own agents (according to the agents' prior recommendations to buy or sell), these merit quotients are not "preference rating[s] for each of the market participants" as recited in Claim 1. To further clarify that the preference rating is directed to *who* is involved in a trade, rather than *what* is being traded, Claim 1 has been amended to recite "wherein the preference rating for each market participant is descriptive of the market participant as a trading party."

Kane thus fails to disclose the feature of "automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade." Since Kane and Saias both individually and

collectively fail to teach or suggest all of the elements of Claim 1, there is no combination of Kane and Saias which renders Claim 1 obvious. Claim 1 should be allowed.

Claims 2-16, which incorporate all the features of Claim 1 by dependence, are also patentable over Saias and Kane. Each of these dependent claims is further distinguished over Kane and Saias for the additional subject matter they recite and should be allowed.

#### Claim 17 Is Patentable Over Saias

The Office Action (page 7) rejected Claims 17-22 as being anticipated by Saias. Applicant strongly disagrees.

Claim 17 recites, in part, a method of "facilitating a trade between the first trading process and a second trading process, wherein the *second trading process* is unaware of the identity of the first trading process and yet *is able to obtain, from the market process, a preference rating for the first trading process.*" Saias explicitly teaches away from this claim element.

To understand this point, it is first necessary to understand that the trading terms, or "preferences," of Saias are directed to what is being traded, not to who is on the other side of the trade. Each of the parties can submit terms to be negotiated in order to make a trade. Saias' trading terms are characteristics describing the trade, such as price and quantity; the trading terms are not "a preference rating for the first trading process," as claimed in Claim 17. The nature of the preference rating as describing the party on the other side of the trade is further clarified in Claim 17, where the claim now recites "the preference rating being descriptive of the first trading process as a trading party."

Furthermore, according to Saias, the trading terms form multi-dimensional preference surfaces (see paragraph [0320]), which are not disclosed to the other party in the trade. As noted in paragraph [0317] (quoted in full in the Office Action at pages 9-10), Saias teaches "*none of the surfaces will be available for inspection or analysis by any other market participant, or any third party.*" This teaching of Saias is not what is taught and claimed in Claim 17. In Claim 17,

the second trading process "is able to obtain, from the market process, a preference rating for the first trading process."

Since Saias fails to teach or suggest all of the elements of Claim 17, Saias cannot be considered to anticipate Claim 17. Claim 17 should be allowed.

#### Claims 18-22 Are Patentable Over Saias

Claim 18 is directed to a method of facilitating trading, comprising:

automatically providing information to a preference rating updating process, and  
automatically deciding, at a software process executing on a computer, the software process being a first market participant, whether to trade with a second market participant based on a preference rating of the second market participant determined by the preference rating updating process, the preference rating being descriptive of the second market participant as a trading party,  
wherein one of the market participants is a buyer in the trade and the other of the market participants is a seller in the trade.

Saias fails to teach or suggest a preference rating updating process, as claimed in Claim 18. Saias also does not teach or suggest a software process (first market participant) that decides whether to trade with a second market participant based on a preference rating of the second market participant determined by the preference rating updating process, wherein the preference rating is descriptive of the second market participant as a trading party.

With respect to Claim 18, the Office Action cited paragraphs [0310]-[0311], as well as paragraphs [0317]-[0318], but these passages teach nothing about a first market participant deciding whether to trade with a second market participant based on a preference rating of the second market participant. In fact, Saias teaches the contrary. The automated market (AM 108) taught by Saias receives trading terms from different parties and arranges trades while keeping information about the parties private. In the present application, the first market participant is given the preference rating (which is "descriptive of the second market participant as a trading party") so that first market participant can determine whether to trade with the second market

participant based on the preference rating. Thus, it can be seen in the present application that the preference rating in Claim 18 is directed to *who* is involved in a trade, rather than *what* is being traded. On the other hand, at paragraph [0318], Saias explains that the preferences are terms for negotiation and include price, quantity, and other characteristics based on *what* is being traded. Preference information obtained from one market participant is not shared with any other market participant.

Claim 18 is patentably distinguished over Saias and should be allowed.

Claims 19-22, which depend from Claim 18, incorporate all of the features of Claim 18. Accordingly, each of these dependent claims is patentably distinguished over Saias for the reasons discussed above. Claims 19-22 also present additional subject matter that defines the claims over Saias. Claims 19-22 should also be allowed.

#### New Claims 23-36 Are Patentable Over Saias and Kane

New Claim 23 is directed to a system for facilitating trading. The system includes a computer having a processing component configured to automatically capture a trade between two market participants, wherein one of the market participants is a buyer in the trade and the other of the market participants is a seller in the trade. The processing component is further configured to automatically determine whether each of the market participants has gained money or lost money from the trade and automatically update a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade. The preference rating for each market participant is descriptive of the market participant as a trading party.

Applicant has considered the disclosures of Saias and Kane, and respectfully submit that neither Saias nor Kane (alone or combined) teaches the system recited in Claim 23, particularly in view of the comments provided above relative to Claim 1. Claim 23 should be allowed.

Claims 24-36, which incorporate all the features of Claim 23 by dependence, are also patentable over Saias and Kane. Furthermore, each of these dependent claims is patentably

distinguished over Kane and Saias for the additional subject matter they recite. Claims 24-36 should be allowed.

New Claims 37-42 Are Patentable Over Saias and Kane

New Claim 37 is directed to a computer-accessible medium having executable instructions stored thereon. When executed, the executable instructions cause a computer to automatically provide information to a preference rating updating process. The executable instructions further cause the computer to automatically decide, as a first market participant, whether to trade with a second market participant based on a preference rating of the second market participant determined by the preference rating updating process. The preference rating is descriptive of the second market participant as a trading party. Further, one of the first and second market participants is a buyer in the trade and the other of the first and second market participants is a seller in the trade.

Neither Saias nor Kane, alone or combined, teaches the system recited in Claim 37, particularly in view of the comments provided above relative to Claim 18. Claim 37 should be allowed.

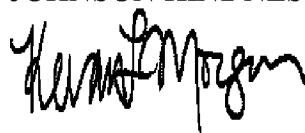
Claims 38-42, which incorporate all the features of Claim 37 by dependence, are also patentable over Saias and Kane. Moreover, each of these dependent claims is patentably distinguished over Kane and Saias for the additional subject matter they recite. Claims 38-42 should thus be allowed.

### CONCLUSION

Claim 1-42 are all believed to be in allowable condition. A notice to that effect at an early date is requested. Should any issues remain needing resolution prior to allowance, the Examiner is invited to directly contact the undersigned counsel to discuss these issues.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Kevan L. Morgan", is written over the printed name.

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